

**United States District Court  
for the District Of New Jersey**

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JAMES ROSARIO

Plaintiff,

v.

Civil No.: 13-4380 (KSH)

THE STATE OF NEW JERSEY;  
DEPARTMENT OF CORRECTIONS OF THE  
STATE OF NEW JERSEY; COMMISSIONER  
GARY M. LANIGAN; WARDEN PAUL  
LAGANA; C.O. SAUNDERS; C.O. DASHER;  
C.O. HAWKINS; JOHN DOES 1-10

Defendants.

**Order**

And now, for the reasons set forth in the accompanying opinion,

IT IS, on this 16th day of January, 2014,

**ORDERED** that the motion to dismiss/for summary judgment [D.E. 8] is **GRANTED**  
**IN PART** and **DENIED IN PART**:

- Counts five, six, and eight are dismissed;
- The claims against the State, the Department of Corrections, and Lagana in his official capacity are dismissed in their entirety;
- The claims against Lagana in his individual capacity are dismissed and **as to those claims only**, plaintiff is permitted to file an amended complaint on or before January 27, 2014.
- Defendants' motion is denied in all other respects;

- Defendants' motion for summary judgment as to certain claims is denied;
- No further motion practice will be permitted pending further order of the Court.
- The parties are directed to appear on March 24, 2014 before Magistrate Judge Cathy Waldor for the scheduled Rule 16 conference.

/s/ Katharine S. Hayden  
Katharine S. Hayden, U.S.D.J.